

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ExteNet Systems LLC.		)	Civil Action No. 6:20-cv-07129-
	Plaintiff,	)	EAW
		)	
vs.		)	<b>PLAINTIFF EXTENET</b>
		)	<b>SYSTEMS LLC'S NOTICE OF</b>
City of Rochester, New York		)	<b>MOTION AND MOTION <i>IN</i></b>
	Defendant.	)	<b><i>LIMINE</i></b>
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**PLEASE TAKE NOTICE** that Plaintiff, ExteNet Systems LLC (“ExteNet”), by and through its counsel of record, hereby respectfully moves, *in limine*, that the Court preclude Defendant, City of Rochester’s (“City”) witness, Louie Tobias, from offering expert opinion testimony, including but not limited to regarding the reasonableness of the City’s costs, cost allocations, or fees related to telecommunications providers’ use of the City’s public rights-of-way. The City failed to designate Mr. Tobias as an expert under Federal Rule of Civil Procedure 26 or qualify him as such under Federal Rule of Evidence 702. Alternatively, ExteNet requests that the Court preserve this evidentiary issue for application during trial based on the specific testimony offered by Mr. Tobias and ExteNet’s objection thereto.

ExteNet’s Motion is made on the ground that because Mr. Tobias was not designated or qualified as an expert by the City, under Fed. R. Evid. 701 and 702, he may not offer opinion testimony, including but not limited to regarding the reasonableness of the City’s costs, cost allocations, or fees since it would rely on technical or specialized knowledge. This Motion is based on this Notice of Motion, the Memorandum of Law in support thereof, the Declaration of T. Scott

Thompson, the pleadings and record filed in this action, and any further evidence or argument as may be presented to the Court.

Respectfully Submitted,

/s/ Haran C. Rashes

Haran C. Rashes (4965307)

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February 24, 2023

**CERTIFICATE OF SERVICE**

I hereby certify that on this 24th day of February 2023, a copy of the foregoing **PLAINTIFF'S NOTICE OF MOTION AND MOTION *IN LIMINE*** was electronically filed and served via the CM/ECF system upon the following counsel for Defendant:

TIMOTHY R. CURTIN, Corporation Counsel  
PATRICK BEATH, Esq., Of Counsel  
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Rochester, New York 14614

/s/ Haran C. Rashes  
Haran C. Rashes, Esq.